

Public Health Appeal Board

Annual Report 2012

**Government
of Alberta ■**

For further information

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Public Health Appeal Board Members

Kenneth Hodgins – Fort Saskatchewan Chair

Mr. Hodgins' background is in the Men's Wear retail business for 35 years – 27 years as owner/operator. Ken has been active in many community organizations. Ken served 18 years on municipal council - 9 years as alderman and 9 years as mayor of Fort Saskatchewan. Ken recently retired as executive director of the Fort Saskatchewan Chamber of Commerce.

Lillian Douglass – Edmonton Vice Chair

Ms. Douglass is a former associate professor and associate dean at the University of Alberta. She has served on a number of boards at the provincial, national, and international levels. Her varied professional pursuits include health promotion and graduate education development internationally. Lillian is a recipient of the Alberta Centennial Medal.

Diana Demeules – Calgary

Ms. Demeules is a former Military Police member who served twenty years with the Canadian Forces. She has also served on numerous boards pertaining to Victim Rights and spent two years as the investigative specialist for the Canadian Food Inspection Agency. She recently transferred to Transport Canada where she is an Aviation Security Inspector.

Phyllis Kobasiuk – Spruce Grove

Ms. Kobasiuk has served municipal and provincial government for over forty years in various governance roles. First elected to the County of Parkland in 1989, Phyllis has been Councillor, Reeve, Board of Education Trustee and Chair. In 2004, she became the first publicly elected Mayor of Parkland County. For ten years Phyllis served as the Pembina Director on the Executive of the Alberta Association of Municipal Districts and Counties. Currently, Phyllis is a Peer Mentor with Alberta Municipal Affairs. In recognition of her many contributions, she has been awarded the Parkland County Community Service Award of Excellence, Premier's Award of Municipal Excellence, the Alberta Centennial Medal, and the Queen's Diamond Jubilee Award.

Terry Bunce – Calgary

Terry Bunce was first appointed to the Public Health Appeal Board in 2011. He is a Calgary board member who has been active with a variety of theatre, dance, and community service organizations for several decades. His work on quasi-judicial panels is a logical extension of his community activism and social conscience. He has served in adjudicative positions for the past 13 years including the Appeals Commission for Workers' Compensation, Persons with Developmental Disabilities Appeal Secretariat, and as a Hearing Adjudicator for inmate disciplinary matters in Alberta correctional facilities. He enjoys the consensus-based decision-making format of the board and considers it a privilege to be able to make a positive contribution to the community through the decisions rendered.

Background

The Public Health Appeal Board (the Board) was established February 03, 1999 under the amended *Public Health Act*. The Board replaced the former Public Health Advisory and Appeal Board established in 1985.

The Board is subject to general rules of administrative law and natural justice as they apply to quasi-judicial tribunals.

Donald R. Cranston, Q.C., of the law firm Bennett Jones LLP provides the Board with independent legal counsel.

Duties

The Board is a panel of not more than five members appointed by the Lieutenant Governor in Council. The mandate of the Board is to hear appeals from individuals who have been directly affected by a decision of a regional health authority (RHA). Those decisions are related primarily to orders issued pursuant to section 62 of the *Public Health Act*.

The Board may call upon technical experts and professionals to assist and provide them with specific knowledge in areas related to an appeal. At the completion of an appeal, the Board gives written notice of its decision.

It may:

- confirm, reverse or vary the decision of the RHA or
- refer the matter back to the RHA for further consideration.

2011 APPEAL APPLICATIONS – HEARING – DISPOSITIONS

Alberta Health Services 2011	Appeal Applications	Date of Appeal mm/dd/yyyy	Appeal Withdrawn	Decision	Comments
Zone 2 Calgary	25/2011	10/21/2011	Withdrawn		
	26/2011	10/23/2011	Withdrawn		
	27/2011	10/21/2011	Withdrawn		
	28/2011	10/23/2011	Withdrawn		
	30/2011	10/27/2011		Confirmed	
	34/2011	12/29/2011	Withdrawn		
Zone 3 Central	24/2011	10/17/2011			Appeal adjourned until further notice. Appellant applied to the Waiver Committee. Hearing to be scheduled.
	33/2011	12/20/2011		Confirmed	
Zone 4 Edmonton	21/2011	10/12/2011	Withdrawn		
	31/2011	11/09/2011		Confirmed	
Zone 5 North					

2012 APPEAL APPLICATIONS – HEARING – DISPOSITIONS

Alberta Health Services 2012	Appeal Applications	Date of Appeal mm/dd/yyyy	Appeal Withdrawn	Decision	Comments
Zone 1 South					
Zone 2 Calgary	02/2012	01/24/2012	Withdrawn		Did not reply to abandonment of appeal and file closure letter.
	04/2012	02/15/2012		Time not extended	Time in which the appeal could be filed was not extended.
	06/2012	03/19/2012		Time not extended	Time in which the appeal could be filed was not extended.
	09/2012		Withdrawn		
	17/2012	06/28/2012		Confirmed	
	18/2012	07/09/2012	Withdrawn		
	19/2012	07/17/2012	Withdrawn		
	20/2012	07/17/2012	Withdrawn		

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	24/2012	08/08/2012	Withdrawn		
	25/2012	08/23/2012		Confirmed	
	27/2012	09/21/2012			Scheduling of hearing postponed by Appellant. Hearing to be scheduled. Final details to be provided in next year's report.
Zone 3 Central	12/2012	05/11/2012	Withdrawn		
	13/2012	05/18/2012	Withdrawn		
	22/2012	08/10/2012		Confirmed	
Zone 4 Edmonton	03/2012	02/10/2012	Withdrawn		
	05/2012	02/15/2012	Withdrawn		
	08/2012	05/04/2012		Confirmed	
	10/2012	05/07/2012	Withdrawn		
	11/2012	05/09/2012	Withdrawn		
	15/2012	06/12/2012		Confirmed	
	16/2012	06/25/2012	Withdrawn		
	23/2012	08/13/2012	Withdrawn		Did not reply to abandonment of appeal and file closure letter.
Zone 5 North	01/2012	01/03/2012	Withdrawn		
	07/2012	03/23/2012		Confirmed	
	14/2012	05/31/2012			Appeal adjourned until further notice. Order to be re-issued. Final details to be provided in next year's report.
	21/2012	07/26/2012	Withdrawn		
	26/2012	09/06/2012	Withdrawn		

Appeal Activities and Summaries

The following is a summary of all appeals or applications received and/or heard by the Board from January 1, 2012 to December 31, 2012. All orders were issued by an executive officer of the regional health authority named as per the following:

21/2011 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated on or before September 30, 2011. The owner was required to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

The Appellant withdrew the appeal.

24/2011 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, requiring the immediate closure of the food establishment. The owner was required to obtain a valid food handling permit from Alberta Health Services Zone 2 Calgary.

Hearing scheduled for November 18, 2011

This hearing was adjourned. The Appellant agreed to pay the permit fees under protest and Alberta Health Services Zone 3 Central rescinded the order. The Appellant will approach the Alberta Health Services Waiver Committee regarding the food handling permit fees.

Hearing to be scheduled for 2012

Final details will be provided in next year's Annual Report.

Hearing to be scheduled for 2013

Both parties agreed to a continued adjournment of this appeal and the Board granted the adjournment. Final details will be provided in next year's Annual Report.

25/2011 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

The Appellant withdrew the appeal.

26/2011 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

The Appellant withdrew the appeal.

27/2011 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

The Appellant withdrew the appeal.

28/2011 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

The Appellant withdrew the appeal.

30/2011 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated by October 31, 2011. The owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

Hearing held November 29, 2011

The Board decided to confirm the Order. The owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

31/2011 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions identified in the order by a specified date to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

Hearing held February 13, 2012

The Board decided to confirm the order. The owner was to correct the conditions identified in the order.

33/2011 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to close the premises immediately and correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 3 Central.

Hearing held February 24, 2012

The Board decided to confirm the order. The owner was to close the premises and remain closed until correcting a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 3 Central.

34/2011 – Alberta Health Services Zone 5 North

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 5 North.

The Appellant withdrew the appeal.

01/2012 – Alberta Health Services Zone 5 North

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 5 North.

The Appellant withdrew the appeal.

02/2012 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated by February 1, 2012. The owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

Stay hearing held January 27, 2012

Alberta Health Services Zone 2 Calgary extended the date by which the tenants were required to vacate the premises from February 1, 2012 to March 1, 2012.

Hearing not scheduled.

A letter was sent to the Appellant requesting a response regarding the appeal by March 12, 2012, and failing a response the file would be considered closed. No response was received, so the appeal was considered withdrawn and the file closed.

03/2012 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated by February 15, 2012. The owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

The Appellant withdrew the appeal.

04/2012 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated by February 1, 2012. The owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

Written submissions from both parties received February 22, 2012

The Board found the Notice of Appeal was filed outside of the time allowed in the *Public Health Act*. The Board did not extend the time within which this appeal could be filed.

05/2012 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated by February 10, 2012. The premise was to remain vacant and the owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

Hearing held March 12, 2012

The Appellant withdrew the appeal at the hearing.

06/2012 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated by March 31, 2012. The premises were to remain vacant and the owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

Written submissions from both parties received March 22, 2012

The Board found the Notice of Appeal was filed outside of the time allowed in the *Public Health Act*. The Board did not extend the time within which this appeal could be filed.

07/2012 – Alberta Health Services Zone 5 North

Appeal of the order under Section 62 of the *Public Health Act*. The owner was to cease providing esthetic services until the conditions identified in the order were corrected to the satisfaction of an executive officer of Alberta Health Services Zone 5 North.

Hearing held April 20, 2012

The Board decided to confirm the order. The owner was to cease providing esthetic services until the conditions identified in the order were corrected to the satisfaction of an executive officer of Alberta Health Services Zone 5 North.

08/2012 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated on or before April 2, 2012. The premise was to remain vacant and the owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

Hearing held May 3, 2012

The Board decided to confirm the order. The premises were to remain vacant and the owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

09/2012 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises closed for tenant accommodation purposes and requiring the premises to be vacated on or before midnight, April 30, 2012. The premises were to remain vacant and the owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

The Appellant withdrew the appeal.

10/2012 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises closed for tenant accommodation purposes and requiring the premises to be vacated on or before May 1, 2012. The premises were to remain vacant and the owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

Hearing scheduled for May 25, 2012

The Appellant withdrew the appeal.

11/2012 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises closed for tenant accommodation purposes. The premise was to remain closed for tenant accommodation purposes and the owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

Hearing scheduled for May 28, 2012

The Appellant withdrew the appeal.

12/2012 – Alberta Health Services Zone 3 Central

Appeal of two reports issued by Alberta Health Services Zone 3 Central. The premises were to cease ear-piercing procedures and the owners were to correct the conditions identified in the reports to the satisfaction of an executive officer of Alberta Health Services Zone 3 Central.

Alberta Health Services and council for the Public Health Appeal Board questioned whether or not the reports presented were appealable and constitute orders under section 62 of the *Public Health Act*. The Board reviewed the reports and corresponding legislation on June 7, 2012. Any additional information from parties was requested to be provided by June 5, 2012.

The Appellant withdrew the appeal.

13/2012 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 3 Central.

Hearing Scheduled for June 7, 2012

The Board granted an adjournment of the hearing until after June 14, 2012.

Hearing Scheduled for June 26, 2012

The Appellant withdrew the appeal.

14/2012 – Alberta Health Services Zone 5 North

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated on or before May 28, 2012. The premises were to remain vacant and the owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 5 North.

Hearing to be scheduled

Both parties agreed to an adjournment and the Board granted an adjournment of this hearing until further notice. The Appellant will be provided with a revised order. Final details will be provided in next year's Annual Report.

15/2012 – Alberta Health Services Zone 4 Edmonton

Appeal of a closure and vacate order under Section 62 of the *Public Health Act*, requiring that the premises be vacated on or before July 1, 2012. The premises were to remain closed for tenant accommodation purposes, and the owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

Hearing held July 17, 2012

The Board decided to confirm the order. The premises were to remain vacant until the owner corrected the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

16/2012 – Alberta Health Services Zone 4 Edmonton

Appeal of an unfit for human habitation order to vacate under Section 62 of the *Public Health Act*, requiring that the premises be vacated on or before July 1, 2012. The premises were to remain vacant until the owner corrected the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

Stay hearing held June 29, 2012

The Board Chair decided not to grant a stay of the order pending the appeal hearing.

Hearing scheduled for July 31, 2012

The Board granted an adjournment of this appeal until August 14, 2012.

The Appellant withdrew the appeal.

17/2012 – Alberta Health Services Zone 2 Calgary

Appeal of a notice of closure order to vacate under Section 62 of the *Public Health Act*, requiring that the premises be closed immediately. The premises were to remain closed until the owner corrected the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

Hearing held August 16, 2012

The Appellant was not in attendance at the hearing. The Board decided it did not have jurisdiction to hear the appeal as the property in question no longer existed.

18/2012 – Alberta Health Services Zone 2 Calgary

Appeal of a notice of closure order to vacate under Section 62 of the *Public Health Act*, requiring that the premises be closed immediately. The premises were to remain closed until the owner corrected the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

Hearing scheduled for August 15, 2012

Hearing rescheduled for August 23, 2012

A letter was sent to the Appellant requesting a response regarding the appeal by September 24, 2012, and failing a response the file would be considered closed. No response was received, so the appeal was considered withdrawn and the file closed.

19/2012 – Alberta Health Services Zone 2 Calgary

Appeal of a closure for plant growing operation purposes order under Section 62 of the *Public Health Act*, requiring that use of the premises for plant growing operations be immediately discontinued. The owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

The Appellant withdrew the appeal.

20/2012 – Alberta Health Services Zone 2 Calgary

Appeal of a closure for plant growing operation purposes order under Section 62 of the *Public Health Act*, requiring that use of the premises for plant growing operations be immediately discontinued. The owner was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

The Appellant withdrew the appeal.

21/2012 – Alberta Health Services Zone 5 North

Appeal of an unfit for human habitation order to vacate under Section 62 of the *Public Health Act*, requiring that the premises be vacated on or before July 25, 2012. The premise was to remain vacated and secured from unauthorized entry until the owner corrected the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 5 North.

The Appellant withdrew the appeal.

22/2012 – Alberta Health Services Zone 3 Central

Appeal of a notice of closure order under Section 62 of the *Public Health Act*, requiring that the owner and/or operator, immediately close the noted food establishment and cease from any further retailing or conveying of food products to the public.

Hearing held September 10, 2012

The Board decided to confirm the order.

23/2012 – Alberta Health Services Zone 4 Edmonton

Appeal of an unfit for human habitation order to vacate under Section 62 of the *Public Health Act*, requiring that the premises be vacated on or before August 2, 2012. The premises were to remain vacated and secured from unauthorized entry until the owner corrected the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

The Appellant withdrew the appeal.

24/2012 – Alberta Health Services Zone 2 Calgary

Appeal of an order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

The Appellant withdrew the appeal.

25/2012 – Alberta Health Services Zone 4 Edmonton

Appeal of a repair order under Section 62 of the *Public Health Act*, requiring that the owner correct the conditions identified in the order.

Hearing held September 28, 2012

The Board decided to confirm the order. The owner was to correct the conditions identified in the order.

26/2012 – Alberta Health Services Zone 5 North

Appeal of an order under Section 62 of the *Public Health Act*, requiring that the owner correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 5 North.

The Appellant withdrew the appeal.

27/2012 – Alberta Health Services Zone 2 Calgary

Appeal of a closed for tenant accommodation order to vacate under Section 62 of the *Public Health Act*, requiring that the premises be vacated on or before August 2, 2012. The premises were to remain closed for tenant accommodation purposes until the owner corrected the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

Hearing not yet scheduled

Final details will be provided in next year's Annual Report.

Other Activities

Board members attended an orientation session to welcome two new members to the Board and review the Board's Rules of Practice. The Board also attended a number of Board meetings to review and discuss Board business.